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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/735,201	12/12/2003	John P. Wesson	60,469-133;OT-4718	1801

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EXAMINER	
LANGDON, EVAN H	
ART UNIT	**PAPER NUMBER**
3654	

DATE MAILED: 04/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/735,201	WESSON ET AL.	
	Examiner	Art Unit	
	Evan H. Langdon	3654	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *18 January 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *13-33* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *13-17 and 19-33* is/are rejected.

7)☒ Claim(s) *18* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 21-26, 28 and 29 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-8 of U.S. Patent No. 6,945,364. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 21-26 and 28 can be gleaned from claims 1-8 of U.S. Patent No. 6,945,364.

Claims 27, 30 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 21-26 and 28 of U.S. Patent No. 6,945,364 in view of Sukale.

Sukale teaches a roller comprising least one of an alloy, stainless steel, chromium, nickel, ceramic or a glass material, the magnetic portion on an exterior of the roller (3, 3').

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the roller of U.S. Patent No. 6,945,364 to include a roller having the magnetic portion on an exterior of the roller as suggested by Sukale, to strengthen the roller and reduce parts. It would have been an obvious matter of design choice to have formed the rollers of Sukake as modified by Spiess from one of an alloy, stainless steel, chromium, nickel, ceramic or a glass material, since applicant has not disclosed that having the rollers formed from one of the above mentioned material solves any stated problem and it appears that the invention would perform equally well with any materials that does not interfere with the motor

Claim 30 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over 21-26 and 28 of U.S. Patent No. 6,945,364 in view of Kim (US 6,581,332). In regards to claim 33, Kim teaches the motor assembly is on the outside of the roller (Fig. 5). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the motor assembly of Sukake as modified by Spiess to include the motor assembly on an outside of the roller as suggested by Kim, to reduce the number of parts in the roller.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 14 and 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is not understood what is meant by "different?" Is this a different characteristic?

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 13-17, 19, 20, 31 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sukake (US 5,852,897) in view of Spiess (US 5,655,626).

Sukake discloses an elevator door assembly comprising a door frame 1, a door frame support member, at least one roller (3, 3') associated with the support member, a motor assembly associated with the roller (3, 3') for movement with the roller, the roller including a plurality of magnetic portions (5) that cooperates with the motor assembly to cause selective movement of the roller, a rail (2) including at least one supporting surface along one side of the rail, the rail provides a track for the roller being able to roll along.

Spiess does not disclose a resilient material track where the roller being able to roll along the track.

Spiess discloses a roller guide for a sliding elevator door comprising a rail (18) including a resilient material track (17) for supporting a roller thereon.

It would have been obvious to one having ordinary skill in the ad at the time the invention was made to have utilized a resilient material track formed from, as suggested by Spiess for the door assembly of Sukake in order to provide a smooth and quite as the door opening and closing.

Re claim 20, Sukake as modified by Spiess does not teach what material the rollers are made of. It would have been an obvious matter of design choice to have formed the rollers of Sukake as modified by Spiess from one of an alloy, stainless steel, chromium, nickel, ceramic or a glass material, since applicant has not disclosed that having the rollers formed from one of the above mentioned material solves any stated problem and it appears that the invention would perform equally well with any materials that does not interfere with the motor.

In regards to claim 32, Sukake as modified by Spiess teaches the plurality of magnet portions are on a portion of the exterior of the roller (3,3').

Claims 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sukake as modified by Spiess as applied to claim 13 above, and further in view of Shepard (US 4,016,920).

Shepard teaches a door assembly comprising a rail 11, 16 including a resilient material track (30) made of polyurethane for supporting a roller thereon.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the resilient material of Sukake as modified by Spiess to be made of at least one of polyurethane, a polyester elastomer, a flouroelastomer or vulcanized rubber as suggested by Shepard, to obtain optimal material for smoothness in operation of the door.

Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sukake as modified by Spiess as applied to claim 13 above, and further in view of Kim (US 6,581,332).

In regards to claim 33, Kim teaches the motor assembly is on the outside of the roller (Fig. 5)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the motor assembly of Sukake as modified by Spiess to include the motor

assembly on an outside of the roller as suggested by Kim, to reduce the number of parts in the roller.

Allowable Subject Matter

Claims 14-15 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claim 18 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is an examiner's statement of reasons for allowance: the prior art of record fail to disclose or suggest an elevator door assembly comprising a resilient track having a first surface characteristic near at least one end of the track and a second surface characteristic that is different than the first surface characteristic on another portion of the track in combination with other limitation as recited in claim 21.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly Labeled "Comments on Statement of Reasons for Allowance."

Response to Arguments

Applicant's arguments with respect to claims 13-17 and 19-20 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Evan H. Langdon whose telephone number is (571)272-6948. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathy Matecki can be reached on (571) 272-6951. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ehl

Kathy Matecki

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